

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MEDICIS PHARMACEUTICAL
CORPORATION and VALEANT
PHARMACEUTICALS INTERNATIONAL,

Plaintiffs,

v.

ZYDUS PHARMACEUTICALS (USA) INC.
and CADILA HEALTHCARE LTD.,

Defendants.

Civil Action No. 16-01565 (RMB) (JS)

Document Electronically Filed

**STIPULATED CONSENT JUDGMENT AND PERMANENT INJUNCTION AS TO
ZYDUS PHARMACEUTICALS (USA) INC. AND CADILA HEALTHCARE LTD.**

WHEREAS, Plaintiffs Medicis Pharmaceutical Corporation and Valeant Pharmaceuticals International (collectively, “**Medicis**”) request that this Stipulated Consent Judgment and Permanent Injunction be entered in the above-captioned case, and Defendants Zydus Pharmaceuticals (USA) Inc. and Cadila Healthcare Ltd. (collectively, “**Zydus**”) do not oppose Medicis’s request.

WHEREAS, Medicis owns United States Patent Nos. 6,765,001 (“**the ’001 patent**”), 7,220,424 (“**the ’424 patent**”), 7,794,738 (“**the ’738 patent**”), and 8,232,264 (“**the ’264 patent**”) (collectively, “**Medicis Patents**”).

WHEREAS, Medicis has an approved New Drug Application No. 21-758 for fluocinonide cream 0.1%, which is sold under Medicis’s trademark Vanos®.

WHEREAS, Zydus Pharmaceuticals (USA) Inc. has submitted Abbreviated New Drug Application No. 208-989 (“**ANDA No. 208-989**”) to the FDA under 21 U.S.C. § 355(j) seeking to

obtain approval to commercially manufacture and sell generic fluocinonide cream 0.1% (“**Zydus Product**”).

WHEREAS, Medicis brought this action for patent infringement against Zydus (the “**Litigation**”) based on Medicis’s receipt of notice from Zydus that it had filed ANDA No. 208-989 with a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) directed to the Medicis Patents.

WHEREAS, in the Litigation, Medicis alleged that Zydus infringed the claims of the ’001, ’424, ’738, and ’264 patents under 35 U.S.C. § 271(e)(2) by Zydus Pharmaceuticals (USA) Inc.’s submission of ANDA No. 208-989 to the FDA.

WHEREAS, Medicis would be irreparably harmed if Zydus is not enjoined from infringing or actively inducing or contributing to infringement of one or more claims of the ’001 patent, one or more claims of the ’424 patent, one or more claims of the ’738 patent, and one or more claims of the ’264 patent.

WHEREAS, Medicis and Zydus have reached an agreement to finally settle the Litigation as set forth in this Stipulated Consent Order and Permanent Injunction, and a separate License and Settlement Agreement (“**Settlement Agreement**”) which is contemporaneously and separately being executed.

WHEREAS, final settlement of the Litigation serves the public interest by saving judicial resources and avoiding the risks of each of Medicis and Zydus associated with infringement.

WHEREAS, final settlement of the Litigation will help Medicis and Zydus avoid the substantial uncertainty and risks involved with prolonged litigation.

WHEREAS, final settlement of this Litigation will permit Medicis and Zydus to save litigation costs, as well as adhere to the judicially recognized mandate that encourages the settlement of litigation whenever possible.

WHEREAS, Medicis and Zydus each consent to personal jurisdiction in the District of New Jersey for purposes of enforcing the Settlement Agreement.

IT IS HEREBY ORDERED, DECREED, and ADJUDGED as follows:

1. The Court has jurisdiction over Medicis and Zydus and the subject matter of this Litigation.
2. Zydus acknowledges Medicis's ownership and standing to sue for infringement of the '001, '424, '738, and '264 patents.
3. Zydus acknowledges that the '001, '424, '738, and '264 patents are valid and enforceable, as described more fully in the Settlement Agreement.
4. Zydus acknowledges that it has infringed the '001, '424, '738, and '264 patents under 35 U.S.C. § 271(e)(2) and that Medicis did not authorize manufacture, use, sale, offer for sale, importation and distribution of the product described in ANDA 208-989.
5. Except as reserved and provided for in the Settlement Agreement, Zydus, on behalf of itself and its subsidiaries and affiliates, acknowledges and agrees that the Medicis Patents are valid and enforceable with respect to the Zydus Product.
6. Except as reserved and provided for in the Settlement Agreement, Zydus and its subsidiaries and affiliates are permanently enjoined as of the date hereof from infringing the '001, '424, '738, and '264 patents by the manufacture, use, offer to sell, sale, importation, or distribution of the products that are the subject of ANDA No. 208-989 that is not pursuant to a license granted

by Medicis, and from inducing others to infringe the '001, '424, '738, and '264 patents by inducing others to manufacture, use, offer to sell, sale, import, or distribute the products that are the subject of ANDA No. 208-989 that is not pursuant to a license granted by Medicis.

7. All claims in this Litigation are hereby dismissed without prejudice.

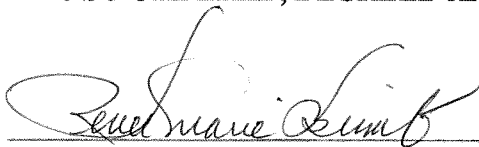
8. The parties are hereby ordered to comply with the terms of the Settlement Agreement.

9. Each party shall bear its own costs and attorneys' fees in connection with this Action.

10. The parties waive any right of appeal from this Stipulated Consent Judgment and Permanent Injunction.

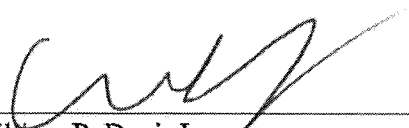
11. This Court shall retain jurisdiction over Zydus and Medicis for the purpose of enforcing the terms of this Stipulated Consent Judgment and Permanent Injunction and over any matters related to or arising from the interpretation or enforcement of the Settlement Agreement or any legal or equitable claim concerning the Settlement Agreement by any third party.

IT IS SO ORDERED, DECREED AND ADJUDGED this 5th day of January, 2016 by:



The Honorable Renée Marie Bumb
United States District Judge


STIPULATED AND AGREED TO BY:



William P. Deni, Jr.
Charles H. Chevalier
J. Brugh Lower
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Tel: (973) 596-4500
Fax: (973) 596-0545
wdeni@gibbonslaw.com
cchevalier@gibbonslaw.com
jlower@gibbonslaw.com

Of Counsel:
Bryan C. Diner
Justin J. Hasford
M. Andrew Holtman
Megan Leinen Johns
**FINNEGAN, HENDERSON,
GARABOW, GARRETT & DUNNER,
LLP**
901 New York Avenue, NW
Washington, DC 20001-4413
(202) 408-4000

*Attorneys for Plaintiffs
Medicis Pharmaceutical Corporation and
Valeant Pharmaceuticals International, Inc.*



Simana B. Rao
MCNEELY, HARE & WAR LLP
12 Roszel Road, Suite C104
Princeton, New Jersey 08540
Tel: (609) 240-2533
Fax: (202) 478-1813

Of Counsel:
William D. Hare
MCNEELY, HARE & WAR LLP
4335 Wisconsin Avenue, Suite 440
Washington, DC 20005
Tel: (202) 640-1801
Fax: (202) 478-1813

*Attorneys for Defendants
Zydus Pharmaceuticals (USA) Inc.
and Cadila Healthcare Ltd.*